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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10 019,998	10/19/2001	Reinhard Lorenz	IN-12095	9873

7590 04/10/2003

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[REDACTED] EXAMINER

SERGENT, RABON A

ART UNIT	PAPER NUMBER
1711	3

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/019,998	Lorenz et al.	
	Examiner	Art Unit	
	Rabon Sargent	1711	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
<b>Period for Reply</b> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>three</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.			
<ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>			
<b>Status</b> <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Jan 28, 2003</u></p> <p>2a) <input type="checkbox"/> This action is <b>FINAL</b>.      2b) <input checked="" type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>			
<b>Disposition of Claims</b> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-8</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input checked="" type="checkbox"/> Claim(s) <u>1, 2, 5, and 7</u> is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>3, 4, 6, and 8</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>			
<b>Application Papers</b> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>			
<b>Priority under 35 U.S.C. §§ 119 and 120</b> <p>13) <input checked="" type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a) <input checked="" type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Certified copies of the priority documents have been received.</li> <li>2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</li> <li>3. <input checked="" type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> </ol> <p>*See the attached detailed Office action for a list of the certified copies not received.</p>			
<p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p> <p>a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>15) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>			
<b>Attachment(s)</b> <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). . . .</p> <p>4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s).</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____</p>			

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1. Claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The subject matter of claims 3 and 4 does not agree with the process set forth within claims 1 or 2. The process of claim 1 requires that the alkoxylation step occur in the presence of the metal salt; therefore, the metal salt is required to be present prior to the formation of the polyether polyol and prior to the introduction of the polyisocyanate component. However, the process steps of claims 3 and 4 suggest that the metal salt is added to the already produced polyether polyol or the polyisocyanate component and requires that the metal salt is dissolved in these components.

2. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The two occurrences of "comprising" within lines 1 and 3 of the claim is confusing, because it is unclear with respect to what constituent comprises the metal salt.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Higuchi et al. (425).

Higuchi et al. disclose polyurethanes produced from double metal cyanide catalyzed polyether polyols, wherein calcium carbonate is present with the polyol. See examples. With respect to claim 6, it has not been established that performing the alkoxylation in the presence of the metal salt yields a distinct product, as compared to the product resulting from the metal salt being added to the polyol after its formation.

5. With respect to claims 3 and 4, in spite of the discrepancy noted within paragraph 1, the position is taken that requirement within claim 1 that the metal salt be present during alkoxylation controls.

Any inquiry concerning this communication should be directed to R. Sergent at telephone number (703) 308-2982.

*Raben Sergent*  
**RABEN SERGENT**  
**PRIMARY EXAMINER**

R. Sergent

April 6, 2003